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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,877	07/11/2003	Marvin Courson	117304.00001	3426
21324	7590	08/24/2004	EXAMINER	
HAHN LOESER & PARKS, LLP TWIN OAKS ESTATE 1225 W. MARKET STREET AKRON, OH 44313			KLEBE, GERALD B	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/617,877	COURSON, MARVIN
	Examiner Gerald B. Klebe	Art Unit 3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 11 July 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*G.B. Klebe  
12 August 2004*

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/24/2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claims Rejections - 35 USC §112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 9, 12, and 18, each recite the limitation "said handle" in line 8 of the claim.

There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

For purposes of further examination on the merits each of the claims 1, 9, 12, and 18 will be interpreted as reciting further that the frame has a handle.

### ***Claims Rejections - 35 USC 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1, as understood by the examiner, is rejected under 35 U.S.C. 102(e) as being anticipated by Notaras (US 6516598).

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Notaras discloses a cart suitable for carrying and operating a motorized lawn trimmer having a motor/fuel tank, an elongated shaft, and a cutting assembly, and comprising:

- a. an elongated frame (refer Fig 10, combination of items 5 and 3) comprising a proximal end and a distal end, and having a handle (20), the frame further comprising a debris guard (130) secured to the distal end, wherein the frame is configured to carry the trimmer during operation of the trimmer.
- b. a wheel assembly (combination 2 and 11, 12, and 13) secured to the frame between the handle (20) and the debris guard (130); and
- c. the debris guard (Fig 11, item 130) comprising an upper shield portion (140) and a lower shield portion (141), wherein the upper shield portion further comprises an opening through which a portion of the trimmer shaft is housed such that when the trimmer is mounted on the cart, the shaft is secured between the upper and lower shields (as shown in Fig 11) and the cutting assembly (15) of the trimmer is oriented forward of the cart (as shown in Fig 10).

4. Claim 9, as understood by the examiner, is rejected under 35 U.S.C. 102(b) as being anticipated by Gray (US 3735831).

Gray discloses a cart comprising:

- a. an elongated frame (Figs 1 and 2, item C) comprising a proximal end and a distal end and having a handle (29), and further comprising a debris guard (Fig 5, item D) secured to the distal end, and
- b. a wheel assembly(combination A and B) secured to the frame between the handle and the debris guard; and

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- c. a substantially U-shaped mounting device (Figs 4, 5: the combination of 42, 43, 44)

secured to the frame.

5. Claim 9, as understood by the examiner, is rejected under 35 U.S.C. 102(e) as being anticipated by Notaras (US 6516598).

Notaras discloses a cart comprising:

- a. an elongated frame (Fig 1, combination items 3 and 5) comprising a proximal end and a distal end and having a handle (20), and further comprising a debris guard (30) secured to the distal end, and
- b. a wheel assembly (combination 11 and 2) secured to the frame between the handle (20) and the debris guard (30); and
- c. a substantially U-shaped mounting device (16) secured to the frame.

6. Claim 12, as understood by the examiner, is rejected under 35 U.S.C. 102(e) as being anticipated by Notaras (US 6516598).

Notaras discloses a cart suitable for carrying and operating a motorized lawn trimmer and comprising:

- a. an elongated frame (Fig 1, combination 5 and 3) comprising a proximal end and a distal end, and having a handle (20), the frame further comprising a debris guard (30) secured to the distal end, and wherein the frame is configured to carry the trimmer during operation of the trimmer.
- b. a wheel assembly (combination 11 and 12) secured to the frame between the handle (20) and the debris guard (30); and

c. a throttle control assembly (21) secured to the frame, and comprising an actuation device, a lever assembly (best seen in Fig 10), and a cable having one end secured to the throttle actuation device and an opposite end secured to the lever assembly, the lever assembly oriented on the frame such that at least a portion of the lever assembly is positioned near a throttle trigger to the trimmer (not shown, considered inherent for these devices to have a Bowden-type cable extending between the lever operated by the user and the throttle trigger of the engine of the trimmer).

7. Claim 18, as understood by the examiner, is rejected under 35 U.S.C. 102(e) as being anticipated by Notaras (US 6516598).

Notaras discloses a cart suitable for carrying and operating a motorized lawn trimmer and comprising:

a. an elongated frame (refer Fig 10, combination of items 5 and 3) comprising a proximal end and a distal end, and having a handle (20), the frame further comprising a debris guard (130) secured to the distal end, and wherein the frame is configured to carry the trimmer during operation of the trimmer.

b. a wheel assembly (combination 2 and 11, 12, and 13) secured to the frame between the handle (20) and the debris guard (130); and

c. a throttle control assembly (21) secured to the frame, and comprising an actuation device, a lever assembly, and a cable having one end secured to the throttle actuation device and an opposite end secured to the lever assembly, the lever assembly oriented on the frame such that at least a portion of the lever assembly is positioned near a throttle trigger to the trimmer (the cable and actuation device are not shown, but it is inherent for these devices to have a Bowden-

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type cable extending between the lever operated by the user and the throttle trigger actuator of the trimmer engine);

- d. a substantially U-shaped mounting device secured to the frame (refer Fig 1, item 16);
- e. the debris guard (130) comprising (refer Fig 11) an upper shield portion (140) and a lower shield portion (141) wherein the upper shield portion further comprises an opening through which a portion of the trimmer shaft (25) may be housed such that the shaft is secured between the upper and lower shields (as shown in Fig 11) and the cutting assembly (15) of the trimmer is oriented forward of the cart (as shown in Fig 10).

***Allowable Subject Matter***

8. Claims 2-8, 10-11, 13-17, and 19-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Prior Art made of Record***

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art of Everts et al., of Galt, and of Smothers each teaches a lawn trimmer carrying cart using a debris shield; the prior art of Gerber, of Letter, and of Ballard et al. each teach wheeled carriages for lawn equipment and wherein the references of Gerber and Ballard et al. show the use of lever actuators mounted to the carriage frame for throttle control of the equipment engines during use; Helmig teaches a carriage frame for a lawn edger wherein the frame has a U-shaped structure for securing the engine on the frame; Pittinger, Sr. et al. teaches a carriage for a lawn trimmer or mower having a planar debris shield and having wheel assemblies fore and aft of the debris shield; Scott teaches a carriage frame for a lawn trimmer and having

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wheel assemblies mounted to the frame between debris shield and the handle; Gay teaches a carriage cart for a sickle-bar mower and having the engine control lever mounted on the carriage handle.

***Conclusion***

10. Any inquiry concerning this or earlier communication(s) from the examiner should be directed to Gerald B. Klebe at 703-305-0578, fax 703-872-9306; Mon.-Fri., 8:00 AM - 4:30 PM ET, or to Supervisory Patent Examiner Christopher P. Ellis, Art Unit 3618, at 703-308-2560.

Official correspondence should be sent to the following TC 3600 Official Rightfax numbers as follows: Regular correspondence: 703-872-9326; After Finals: 703-872-9327; Customer Service: 703-872-9325.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 gbklebe Art Unit 3618 / 12 August 2004

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